

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

October 1, 2004

IN RE:	)	
	)	
PETITION OF MEMPHIS-SHELBY COUNTY	)	DOCKET NO.
PUBLIC LIBRARY AND INFORMATION CENTER	)	04-00008
TO DESIGNATE 211 SERVICE FOR NON-PROFIT	)	
COMMUNITY INFORMATION AND REFERRAL	)	
SERVICES WITHIN THE CITY OF MEMPHIS	)	
AND THE COUNTIES OF SHELBY, LAUDERDALE,	)	
TIPTON AND FAYETTE, TENNESSEE	)	

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ORDER APPROVING  
ALLOCATION OF N11 NUMBER (211) TO MEMPHIS-SHELBY  
COUNTY PUBLIC LIBRARY AND INFORMATION CENTER

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This matter came before Chairman Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at the regularly scheduled Authority Conference held on March 22, 2004, to consider the Petition filed by Memphis-Shelby County Public Library and Information Center (the "Applicant") seeking the allocation of the 211 abbreviated dialing code to provide information and referral services to Shelby, Lauderdale, Tipton and Fayette Counties.

**Background**

**FCC's Third Report and Order**

On July 31, 2000, the Federal Communications Commission ("FCC") released its *Third Report and Order and Order on Reconsideration* in CC Docket No. 92-105 ("*Third Report and Order*") in which the FCC granted a petition filed by information and referral service providers

seeking nationwide assignment of an abbreviated dialing code.<sup>1</sup> In assigning the abbreviated dialing code 211 for access to community information and referral services, the FCC found that the proposal submitted by the petitioners met the “public interest” standards for assignment of N11 codes which the FCC established in its *N11 First Report and Order*.<sup>2</sup> The FCC specifically found in the *Third Report and Order*:

Individuals facing serious threats to life, health, and mental well being have urgent and critical human needs that are not addressed by dialing 911 for emergency assistance or 311 for non-emergency police assistance. . . . We believe that the Information and Referral Petitioners have shown a public need exists for an easy to use, easy to remember N11 code to efficiently bring community information and referral services to those who need them, providing a national safety network for persons to get access readily to assistance. Therefore, we find that the public interest standard has been met.<sup>3</sup>

The FCC then outlined the necessary steps that must be taken by telecommunications service providers upon receiving a 211 request.

[W]hen a provider of telecommunications services receives a request from an entity (e.g., the United Way) to use 211 for access to community information and referral services, the telecommunications provider must: (1) ensure that any entities that were using 211 at the local level prior to the effective date of this Order relinquish use of the code for non-compliant services, and (2) take any steps necessary (such as reprogramming switch software) to complete 211 calls from its subscribers to the requesting entity in its service area. . . . We expect community service organizations to work cooperatively to ensure the greatest public use of this scarce resource.<sup>4</sup>

The *Third Report and Order* also provides that the FCC, not the North American Numbering Plan Administration (“NANPA”) or another entity, will continue to designate and

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<sup>1</sup> “Abbreviated dialing codes enable the caller to connect to a location in the network that otherwise would be accessible only via a seven or ten-digit telephone number. The network must be pre-programmed to translate the three-digit code into the appropriate seven or ten-digit telephone number and route the call accordingly. Among abbreviated dialing arrangements, ‘N11’ codes are three-digit codes of which the first digit can be any digit other than 1 or 0, and the last two digits are both 1.” *In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105 (*Third Report and Order and Order on Reconsideration*) 15 F.C.R. 16753, ¶ 3 (July 31, 2000) (hereinafter *Third Report and Order*)

<sup>2</sup> See *In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements*, CC Docket No. 92-105 (*First Report and Order and Further Notice of Proposed Rulemaking*) 12 FCC Rcd. 5572 (February 19, 1997) (hereinafter *N11 First Report and Order*)

<sup>3</sup> *Third Report and Order* at ¶¶ 18-19

<sup>4</sup> *Id.* at ¶ 21.

assign N11 codes for nationwide use. Nevertheless, the FCC explicitly stated that local assignments could be made by the state commissions.

Once we assign or designate an N11 for national use, essentially all that remains to do is to implement that assignment and monitor the uses of the N11 codes. We do not at this time decide what role, if any, state commissions may play once we make a national assignment. That role will necessarily be determined on a case by case basis as we make national assignments. We clarify, however, that states will be allowed to continue to make local assignments that do not conflict with our national assignments.<sup>5</sup>

### **TPSC's 1993 Interim Order**

Prior to the issuance of the FCC's *Third Report and Order*, the Authority reviewed requests for the allocation of N11 numbers pursuant to criteria set forth in the Interim Order issued on October 20, 1993, by the Tennessee Public Service Commission ("TPSC") in TPSC Docket No. 92-13892 ("TPSC Order"), to determine the most qualified applicant for allocation of each N11 number in each local calling area.<sup>6</sup> The criteria in the TPSC Order included: (1) the overall financial fitness of the applicant; (2) the technical ability and willingness of the applicant to provide the service on a permanent and continuous basis; (3) the ability and willingness of the applicant to abide by applicable TPSC rules and policies; (4) the rates, services and collection practices to be utilized by the applicant; (5) the extent and duration of the applicant's service to the local community; (6) anticipated future uses by the community of the proposed service being

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<sup>5</sup> *Id.* at ¶ 43. The FCC described the assignment designation and implementation process as follows: Assignment or designation involves announcement to the industry that a particular N11 code will be used for certain, defined purpose(s). This announcement alerts current users of the N11 code that nonconforming uses must cease as part of the implementation process. Implementation, on the other hand, may involve, in addition to discontinuing nonconforming uses, preparing and modifying switches to translate the N11 code and route the call accordingly, installing additional switching equipment, and installing or modifying software or other hardware.

*Id.* at ¶ 43, n 123.

<sup>6</sup> See *In re Petition of National Telephone Enterprises for Allocation of an N11 Number (Abbreviated Dialing Code)*, Docket No. 98-00554, *Order Granting Allocation of N11 Abbreviated Dialing Code* (June 22, 1999), *In re Petition of Knoxville Information and Referral, Inc. for Allocation of an N11 Number*, Docket No. 99-00743, *Order Approving Reallocation of N11 Number (211) to Knoxville Information and Referral, Inc. and Allocating N11 Number (511) to National Telephone Enterprises* (July 14, 2000).

offered by the applicant; and (7) the type of information services to be provided by the applicant over N11 and its relative value to the public and local community.<sup>7</sup>

### **Memphis-Shelby County Public Library and Information Center's Petition**

The Applicant filed its Petition with the Authority on January 8, 2004, seeking allocation of the 211 abbreviated dialing code. The Petition and supporting documentation state that the Applicant is a duly qualified and authorized Tennessee non-profit corporation that intends to serve Shelby, Lauderdale, Tipton and Fayette Counties ("Proposed Coverage Areas") by providing free community information and referral guidance to people in need of social services and other assistance from a centralized source. The Applicant's organization was founded in 1893, and its mission statement is "to satisfy the customer's need to know."

### **Findings and Conclusions**

The Authority finds that reliance on the criteria in the TPSC Order does not conflict with the FCC's national assignment of the 211 abbreviated dialing code and that these criteria continue to be instructive as the Authority carries out its role of making local assignments.<sup>8</sup> Accordingly, the Authority finds that the Applicant satisfies the criteria in the following manner:

#### **1. Overall financial fitness, both historical and future:**

The Applicant provided financial information showing that allocations from public funds, grants, and contributions together with other resources totaled 19.4 million dollars for the year 2002. The Applicant provided information stating that 92.3% of its 19.4 million dollars funding

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<sup>7</sup> *In re Investigation of N11 Allocations*, Docket No 92-13892, TPSC Order, pp 4-5 (Oct 20, 1993)

<sup>8</sup> This finding is consistent with the Authority's finding in TRA Docket No 02-00126, *Order Approving Allocation of N11 Number (211) to Contact Ministries, Inc* (issued May 13, 2002), TRA Docket No 02-00127, *Order Approving Allocation of N11 Number (211) to Contact-Concern of Northeast Tennessee, Inc* (issued June 10, 2002) and TRA Docket No 03-00383, *Order Approving Reallocation of N11 Number (211) from National Telephone Enterprises to United Way of Metropolitan Nashville* (issued February 23, 2004).

is received from public donations, 1.7% is received from grants and contributions or donations, and 6% is received from other resources, such as fines, fees and interest.

The Applicant utilizes its non-profit Foundation on a going forward basis in support of capital expenditures. During the last five years the Foundation raised 21.5 million dollars in support of library services. In November 2001, the Foundation purchased new equipment for the opening of a new library primarily with the 21.5 million dollars which it raised. The Applicant intends to utilize the Foundation to solicit additional funding from corporate and individual donors.

The Applicant provided the Authority with a financial statement for the year ending 2002 and the year ending 2003. The balance sheet depicts a decrease of \$123,567.98 in net equity from the year 2002 to the year 2003. This decrease only amounts to a one-half of one percent of the Applicant's total budget. The Applicant's statement of cash flow for the year 2003 provides a positive balance of \$851,145.15. The Applicant's total funding for the year 2003 totaled \$19,690,298. This included \$1,252,650 that was received from fines, fees and interest. The Applicant's expenditures totaled \$21,066,516, resulting in a net income loss of approximately \$123,568 for the year 2003, and the total assets of the Applicant were \$894,523. The Applicant's total liabilities were \$725,214, resulting in its net equity being \$169,309.

**2. Overall technical ability and willingness to provide service on a permanent and continuous basis:**

The Applicant intends to provide 211 information and referral services on a permanent and continuous basis without any costs in its Proposed Coverage Areas. The Applicant currently has a Central Library with twenty-two branches located in Shelby County, and three mobile branches: JobLINC, Training Wheels and InfoBus. The Applicant also utilizes a radio station FM 89.3 WYPL and a television station WYPL TV-18 to promote its services.

JobLINC presently receives approximately 1,000 inquiries for information and referral services through the use of a seven-digit number monthly. JobLINC currently provides services for calls from 9:00 a.m. until 9:00 p.m, Monday through Thursday, and from 9:00 a.m. until 6:00 p.m., Friday and Saturday, and from 1:00 p.m. until 5:00 p.m., every Sunday.

3. **Ability and willingness to comply with any applicable Authority rules and policies:** The Applicant has provided a statement that it will follow the Authority's rules and policies.

4. **The rates, services and collection practices to be utilized by the service provider in providing N11 service:** The Applicant states that it intends to pay all charges incurred in connection with the assignment, utilization and ongoing operations of the 211 abbreviated dialing code, with the exception of any end-user charges generated by dialing the 211 information and referral service from a cellular wireless telephone.

5. **The extent and duration of the Applicant's service to the local community:**

The Applicant has been providing community services since 1893 in the City of Memphis and Shelby County area. In 1975, the Applicant organized the community's first comprehensive community and referral Service. Today, it responds to 12,000 public inquiries annually. In 1975, the Applicant organized the community's first comprehensive community and information and referral service that subsequently provided more than 12,000 inquiries by utilizing a community information data base (<http://www.memphislibrary.org>) with over 2,000 listings.

As indicated, currently the Applicant has a Central Library with twenty-two branches located in Shelby County, and three mobile branches. The Applicant also utilizes a radio station and a television station. The Applicant's LINC mobile branch department intends to incorporate the 211 abbreviated dialing code initiative within its community information and referral services

program, and Mr. Ronald E. Reid intends to operate the 211 program.<sup>9</sup>

**6. Anticipated future uses by the community of the proposed service being offered by the Applicant:** The Applicant intends to incorporate the 2-1-1 program through its twenty-eight year old community and information and referral services. The allocation of a 211 abbreviated dialing code for the residents of the Proposed Coverage Areas enhances the Applicant's mission statement "to satisfy the customer's need to know."

A uniform access number used solely by the citizens for information and social services creates a structured avenue for citizens to access services that are available to them in the Proposed Coverage Areas. It will assist and enhance services for citizens that are needing direction or information. Persons dialing 211 will be directed to individuals who will listen to them and provide the appropriate assistance. The Applicant states that it anticipates a significant number of citizens will utilize the 211 abbreviated dialing code. The Applicant projects that it will receive between 40,000 and 50,000 telephone calls in its first year of operation. The projected numbers are based upon a formula developed by the 211 Atlanta United Way, and upon a 2002 survey performed on an experienced 211 agency by the National 211 Director, Mr. Dan Williams. The results stated that agencies with at least one year of experience reported telephone inquiries totaling three to five percent of the total service area population.

**7. The type of information services to be provided over N11 and its relative value to the public and local community:**

Through access to the 211 abbreviated dialing code, the Applicant will serve the population of the Proposed Coverage Areas by providing free services about community organizations and guidance to individuals seeking social services and other assistance from

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<sup>9</sup> Letter from Ronald E. Reid, Senior Agency Manager, LINC Department for Memphis-Shelby County Public Library & Information Center, to Chairman Deborah Taylor Tate (January 8, 2004)

available programs located in Memphis. The Applicant anticipates that the use of an abbreviated dialing code, such as the 211 code, will reduce confusion among citizens of the proposed coverage area concerning the availability of social services. The citizens who are in need of social or community services will have access to an increased number of social services that can be made available on a more uniform basis. The Applicant states that the initiation of the 211 dialing code will reduce the current high usage of the 911 code.

Based upon careful consideration of the Petition and the exhibits thereto and in following the mandate set forth in the FCC's *Third Report and Order* and the criteria set forth in the TPSC's 1993 Interim Order, the panel voted unanimously to approve allocation of the 211 abbreviated dialing code to Shelby, Lauderdale, Tipton and Fayette Counties.

#### **Recall of 211 Dialing Code from NTE**

In conjunction with approving Memphis-Shelby County Public Library and Information Center, the Authority acted at the March 22, 2004 Authority Conference to recall the 211 dialing code previously allocated to National Telephone Enterprises, Inc. ("NTE")<sup>10</sup> in TRA Docket No. 98-00554. BellSouth's Tariff A139.1.2D sets forth the procedures for recalling an N11 dialing code.

The N11 subscriber must, prior to provisioning of the service, sign a written acknowledgement of this condition and an agreement to return the code upon receipt of 6 months written notice of such a recall from the Company and abide by any subsequent rules which may be identified by the FCC in CC Docket 92-105 regarding the use and return of such N11 codes. If a recall is effected, the Company will work with all N11 subscribers affected by such recall to transfer their service arrangements, if technically and economically feasible at the time, to an abbreviated dialing arrangement, and if not feasible, to a seven-digit dialing arrangement within the 6-month notice period. The N11 subscriber will be required to migrate to any standard access arrangement for information services

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<sup>10</sup> Letter from Charles H. Helein, Esq., notifying the Authority that National Telephone Enterprises is an affiliate name of National A-1 Advertising. The services in Memphis using the 211 code are provided by National A-1 Advertising and not by National Telephone Enterprises.



subsequently agreed to by the industry and approved by the FCC. The N11 subscriber will be charged the appropriate tariff rates for the establishment of the new access arrangement.<sup>11</sup>

The Authority sent a data request to BellSouth on January 16, 2004, regarding the status of the 211 number in the four counties that are the subject of the Applicant's Petition. On January 21, 2004, BellSouth filed a response stating that the 211 code was only being used in Shelby County by NTE. On March 12, 2004, the Authority forwarded a copy of Memphis-Shelby County Public Library and Information Center's *Petition for Allocation of an N11 Number* by facsimile transmission to NTE. A copy of the March 22, 2004 Authority Conference Agenda was forwarded by U.S. Mail to NTE.

During the Authority Conference on March 22, 2004, the panel considered the recall of the 211 number to National. No one appeared on behalf of NTE before the panel regarding this docket. Upon reviewing the record, and recognizing the condition under which NTE received its 211 number allocation, the panel voted unanimously to recall the 211 number previously allocated to NTE.

**IT IS THEREFORE ORDERED THAT:**

1. The Petition filed by Memphis-Shelby County Public Library and Information Center seeking the allocation of the 211 abbreviated dialing code to provide information and referral services to Shelby, Lauderdale, Tipton and Fayette Counties is approved subject to the requirements of BellSouth Telecommunications, Inc.'s General Subscriber Services Tariff A139.1.2D.

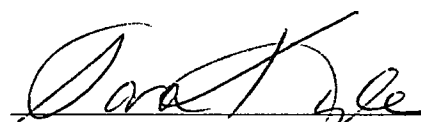
2. Pursuant to the July 31, 2000, Order issued by the Federal Communications Commission in CC Docket No. 92-105 and under the 1993 Tennessee Public Service


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<sup>11</sup> BellSouth Telecommunications, Inc.'s General Subscriber Services Tariff A139, Obsolete Service Offering-Abbreviated Dialing, Service Requirements and Conditions, A139 1 2D

Commission's Interim Order in Docket No. 92-13892, the N11 (211) abbreviated dialing code allocated to National Telephone Enterprises<sup>12</sup> shall be revoked and reallocated from National Telephone Enterprises to Memphis-Shelby County Public Library and Information Center at the end of the six-month notice period as set forth in BellSouth Telecommunications, Inc.'s General Subscriber Services Tariff A139.1.2D.

  
Deborah Taylor Tate, Chairman

  
Sara Kyle, Director

  
Ron Jones, Director

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<sup>12</sup> Letter from Charles H. Helein, Esq., notifying the Authority that National Telephone Enterprises is an affiliate name of National A-1 Advertising. The services in Memphis using the 211 code are provided by National A-1 Advertising and not by National Telephone Enterprises. (February 12, 2004).